United Nations CCPR/C/IRQ/Q/5

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fifth periodic report of Iraq*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please clarify the status of the Covenant within the domestic legal system and whether its provisions can be directly invoked before and/or applied by courts. Please also provide examples, if any, of cases in which the provisions of the Covenant have been invoked before and/or applied by the courts. Please provide information about measures taken to raise awareness of the Covenant among judges, lawyers and prosecutors. Furthermore, please indicate whether the State party intends to become a party to the Optional Protocol to the International Covenant on Civil and Political Rights.

2. Please provide information on measures taken to ensure that the High Commission for Human Rights has the technical, financial and human resources necessary to exercise its mandate effectively. Please also provide information about measures taken to raise awareness about the existence and mandate of the Commission among the population and to ensure that all persons throughout the State party have equal access to the Commission. Furthermore, please provide examples of the work carried out by the Commission in areas related to the Covenant since it started functioning, in particular in relation to its mandate to consider complaints.

Refugees, asylum seekers and internally displaced persons (arts. 2 and 12)

3. While taking note of the information provided in paragraph 237 of the periodic report (CCPR/C/IRQ/5), the Committee would appreciate receiving updated information about the total number of internally displaced persons in the State party. Please provide information on measures taken to ensure that all internally displaced persons have access to adequate accommodation, to basic services and to humanitarian assistance. Furthermore, please provide information about the measures taken to find lasting solutions for internally displaced persons.

4. Please provide information about the number of asylum seekers and refugees in the State party, disaggregated by age, sex and country of origin. In doing so, please indicate where these persons are being accommodated. Please also provide information about efforts made to ensure that all asylum seekers and refugees have access to basic services and protection. Furthermore, please indicate whether any measures have been taken to improve the existing legal framework regulating asylum- and refugee-related matters, in particular

* Adopted by the Committee at its 113th session (16 March–2 April 2015).

the Political Refugee Act (Act No. 51) of 1971, in order to ensure effective protection for asylum seekers and refugees. Please also provide information about the process for requesting asylum, in particular at the borders. In doing so, please indicate whether any restrictions apply and whether all asylum seekers, in particular those fleeing the conflict in the Syrian Arab Republic, are allowed to enter the State party.

Non-discrimination and equality between men and women (arts. 2, 3 and 26)

5. Please indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that: addresses discrimination in all spheres, including in the private sphere; prohibits direct, indirect and multiple discrimination; contains a comprehensive list of prohibited grounds for discrimination, including age, property, birth, health status, sexual orientation and gender identity; and provides for effective administrative and judicial remedies. In relation to paragraph 177 of the periodic report, please further elaborate on the "sexual practices [of homosexuals that] constitute a punishable offence under Iraqi law" and provide information regarding any prosecutions of persons for homosexual conduct and the sentences imposed. Please also provide data regarding acts of violence against lesbian, gay, bisexual and transgender persons and indicate whether the State party has taken any measures to prevent and provide protection from violence and discrimination based on sexual orientation and gender identity.

6. Please provide updated information on measures taken to review and repeal legal provisions that discriminate against women, such as those contained in the Criminal Code, including those referred to in paragraph 62 of the periodic report, and in the Personal Status Act, including those permitting polygamy in certain circumstances. In doing so, please include updated information about the activities undertaken in this respect by the Family Protection Committee. Please also update the information provided in paragraph 69 of the periodic report concerning the representation of women in political and public life, expressing the information in percentages, and indicate whether any special measures have been taken to further improve the representation of women in these fields. While taking note of the information provided in paragraphs 185–190 of the periodic report, the Committee would also appreciate receiving information about measures taken and their impact on preventing early, temporary and forced marriages in practice.

Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26)

7. Please outline the main aspects of the draft law on the prevention of domestic violence referred to in paragraph 66 of the periodic report and provide information about its current status. Please also indicate whether the said draft law and the Kurdistan Region Act (Act No. 8) of 2011 on domestic violence, or other legislation in force, specifically provides for the criminalization of all forms of violence against women, including domestic violence and marital rape and, if not, please indicate whether steps have been or are being taken in that respect. Please also indicate whether female genital mutilation has been prohibited in the State party and provide updated information about the measures taken and their impact on the eradication of this practice, in particular in the Kurdistan Region.

8. Please provide information from the past five years on the number of complaints received by competent authorities with regard to violence against women, including domestic violence; investigations carried out; penalties imposed; and reparation provided to victims. Please also provide information about measures taken to prevent "honour-related killings" and to ensure that all perpetrators are brought to justice and punished. Please also indicate whether any steps have been taken to repeal the Criminal Code provision establishing "honourable motives" as a mitigating excuse. In addition, please provide up-to-date additional information on measures taken and their impact on preventing and combating all forms of violence against women, including: (a) measures taken to

implement the National Strategy to Combat Violence against Women (2013–2017) and the Strategy to Combat Violence against Women in the Kurdistan Region (2012–2016), and the results achieved so far; (b) activities carried out by the Family Protection Committee and the Family Protection Directorate; (c) awareness-raising about the unacceptability and negative consequences of violence against women; and (d) measures taken to facilitate and encourage the reporting of cases of violence against women and to ensure the effective protection of women from offenders.

Counter-terrorism measures and respect for Covenant guarantees (arts. 2, 7, 9, 10 and 14)

9. Please comment on reports that: (a) the Counter-Terrorism Act (Act No. 13) of 2005 has been applied inappropriately to critics of the Government, including political opponents and journalists; (b) many children are held in detention facilities under the said law; (c) terrorist suspects have been subjected to threats, torture and ill-treatment to extract confessions; and (d) several women have been detained and subjected to torture and ill-treatment, including sexual abuse, owing to their relationship with male relatives suspected of terrorism.

States of emergency (art. 4)

10. Please clarify what legislation currently applies to states of war or emergency and whether such legislation specifically prohibits derogation from any of the rights listed in article 4 (2) of the Covenant during a state of war or emergency, and, in particular, what powers are vested in the Prime Minister in this regard. Please also indicate whether any states of emergency have been declared in the past five years and, if so, please indicate what areas were affected and for how long; the procedure effectively followed to declare such state(s) of emergency; the rights enshrined in the Covenant that have been subject to derogation; and whether the obligation under article 4 (3), of the Covenant has been observed.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)

11. In relation to paragraph 10 of the periodic report, please provide statistical information about the investigations carried out on reported human rights violations perpetrated prior to 2003, indicating the number of persons who have been charged and/or convicted to date and the crimes for which they have been charged; the sentences that have been imposed; whether any investigations are still under way and, if so, their current status; and any reparations provided to the victims.

12. Taking into consideration the information provided in paragraph 7 of the periodic report as well as reports about the recent intensification of clashes between the State party's forces and the so-called Islamic State in Iraq and the Levant and associated armed groups, please provide updated information about measures taken and their impact on protecting civilians from abuses committed by these and other non-State actors, and on ensuring that State forces, groups under their control and forces collaborating with the State party do not perpetrate human rights violations under any circumstances and that they take all feasible measures to avoid civilian casualties. Please also provide information on measures taken to prevent, and to ensure accountability for, any human rights violations perpetrated in the State party since 2003, as well as information on the results of those measures. In addition, please provide information on reparations, including rehabilitation, granted to victims. In doing so, please include information on the activities of the Compensation Commission established under the terms of Act. No. 20 of 2009.

13. While the Committee takes note of the information provided in paragraphs 12, 13 and 85 of the periodic report, please provide an exhaustive list of the offences punishable

with the death penalty, with an indication of whether the death penalty is mandatory for any such offences. Please also specify for which offences punishable with the death penalty a special pardon cannot be issued, in accordance with the Constitution and other relevant legislation, and comment on the compatibility of these exceptions with article 6 (4) of the Covenant. Please also provide updated information from the past five years on: (a) the number of convictions involving the death penalty; (b) the number of executions actually carried out, indicating the sex and age of the person and the offence committed; (c) the number of death penalty cases in which a pardon or commutation was granted; and (d) the number of persons on death row. Please comment on reports that, in several instances, death sentences have been handed down on the basis of unverified evidence provided by secret informants and/or confessions obtained under duress, or otherwise in the context of trials that did not meet international human rights standards.

14. In relation to paragraph 89 of the periodic report, please specify the provisions of the Criminal Code and of the Management of Detention and Prison Facilities Act (Act No. 3) of 2003 that prohibit the practice of all forms of torture by law-enforcement and investigating officers. In doing so, please indicate the penalties provided for these offences. Furthermore, and taking into consideration article 37.1 (c) of the Constitution, please clarify whether domestic law provides for an enforceable right to compensation for torture that is independent of criminal prosecution. Please also indicate whether there is a system of rehabilitation specifically tailored for victims of torture.

15. Please indicate the number of cases of torture of prisoners documented by the Ministry of Human Rights in at least the past five years, and indicate the follow-up given to such cases. Please also indicate the status of the cases referred to judicial authorities by the Ministry of the Interior (CCPR/C/IRQ/5, para. 93), including with regard to the investigations carried out and whether any of those investigations resulted in convictions. Please also provide updated information for the last five years on the number of complaints received in connection with acts of torture or ill-treatment, including to obtain a confession; the number of such cases that have been investigated; the outcomes of those investigations, including prosecutions and penalties imposed; and the reparations provided to victims, including rehabilitation. In addition, please comment on reports that:

(a) Torture is practised in prisons and detention centres, in particular as a means to elicit confessions, and authorities fail to thoroughly investigate such cases and bring perpetrators to justice;

(b) Confessions obtained under torture are in practice used as evidence in court and allegations made by defendants in this respect are not adequately investigated;

(c) Torture and ill-treatment have, in a number of cases, caused the death of persons held in custody.

Elimination of slavery and servitude (art. 8)

16. Please provide information on: (a) the extent of trafficking in persons in the State party, expressed in up-to-date statistical data; (b) the measures taken to investigate and prosecute persons involved in human trafficking and to provide remedies to victims, and on the results of those measures; (c) mechanisms in place to identify victims of trafficking and to ensure that victims are not punished for activities carried out as a result of being subjected to trafficking; (d) training programmes for professionals involved in implementing the State party's measures against trafficking, in particular judges and officials responsible for the identification of trafficked victims; and (e) measures taken to assist victims of trafficking and to raise awareness about this phenomenon. Please also provide information about the Higher Committee to Combat Trafficking in Persons, including composition, mandate, resources allocated and activities carried out and their

impact. Please also provide information about incidents of forced labour involving, inter alia, foreign migrant workers and women, and the measures the State party has taken to identify, investigate and remedy acts of forced labour and to punish perpetrators.

Right to liberty and security of persons, right to fair trial and independence of the judiciary (arts. 9 and 14)

17. Please comment on reports that, despite the existing legal safeguards in domestic law:

(a) Security forces have carried out arrests without judicial warrants and without informing those arrested of the charges against them;

(b) Many persons have been detained for prolonged periods of time, sometimes even for years, without being charged, tried or brought before a judge;

(c) A large number of persons have been in pretrial detention for periods exceeding those prescribed by the Code of Criminal Procedure;

(d) A number of detainees, in particular those suspected of having committed terrorism-related offences, have been held incommunicado without access to lawyers or relatives for prolonged periods of time, in certain instances in secret facilities;

(e) Not all detainees have been released immediately after having been discharged by courts or served their sentences and, in some cases, security officials have requested money from the detainees' relatives to release them.

18. While the Committee takes note of the information provided in paragraphs 42 and 43 of the periodic report, please provide additional information concerning efforts made to guarantee the full independence and impartiality of the judiciary in practice. Please also comment on reports indicating that judges, lawyers and court officials have been intimidated, threatened and subjected to physical attacks, including killings, by armed opposition groups as well as intimidated and threatened by State authorities.

Treatment of persons deprived of their liberty (art. 10)

19. Please provide updated information on the number of persons deprived of their liberty in the State party, disaggregated by sex, age and place of deprivation of liberty and by whether they are being held in pretrial detention or have been convicted. In doing so, please indicate the official capacity of each place of deprivation of liberty. Please also provide updated information on measures taken to improve conditions of detention and to ensure that adequate health services are provided in all places of deprivation of liberty, including those for juvenile offenders. In addition, please comment on reports that: (a) women deprived of their liberty are repeatedly subjected to rape and sexual assault; and (b) in the Asayish Gishty detention centre, located in Sulaymaniyah, Kurdistan Region, detainees suspected of serious offences are routinely placed in solitary confinement upon admission.

Freedom of conscience and religious belief (art. 18)

20. Please elaborate further on the reference, in paragraph 155 of the periodic report, to the "right to change one's religion, but only to Islam" and comment on this in the light of article 18 of the Covenant and the Committee's general comment No. 22 (1993), in particular paragraph 5 thereof. Please include information on the consequences that would result should a person convert from Islam to another religion. Please also indicate whether Law No. 105 prohibiting the practice of the Baha'i faith is still in force and whether there are similar laws concerning other faiths. If so, please clarify the consequences of these laws in practice and indicate whether any steps have been taken to repeal them. In addition,

please provide statistical information for the last five years on the application by the courts of article 372 of the Criminal Code.

Freedom of expression and peaceful assembly and freedom of association (arts. 19, 21 and 22)

21. Given the information provided in paragraph 161 of the periodic report and reports that journalists and media workers continue to be subjected to violent attacks, arrest and detention, death threats, confiscation of equipment, harassment and intimidation by both State and non-State actors, as well as prevented by security forces from covering stories, please provide up-to-date additional information about measures taken to prevent such violations and to bring perpetrators to justice, and on the results of those measures. Please also indicate whether any steps have been taken to decriminalize defamation. In addition, please provide information about the main aspects of the bill on freedom of opinion and expression and the right of peaceful assembly, referred to in paragraph 175 (d) of the periodic report, and its current status.

22. Please indicate how many requests to hold demonstrations have been received, accepted and rejected by the Ministry of the Interior and Provincial Governors in at least the past five years. Please also comment on reports that State authorities have, in a number of instances, resorted to excessive use of force to disperse demonstrations, including with regard to the events that took place in Hawijah in April 2013, which reportedly resulted in a significant number of people dead or wounded. Please provide information on any investigations carried out; their results, including prosecutions and penalties imposed; and the measures taken to provide reparation for the victims and/or their relatives.

Protection of children (art. 24)

23. Please provide information on measures taken to ensure that every child is registered immediately after birth, including information on the impact of those measures. Taking into consideration reports that children are being used in and/or recruited into armed conflict by both pro-Government and opposition armed groups, please also provide information about measures taken to detect and eradicate such practices and to prosecute and punish those responsible. Please also provide information about recovery and reintegration services provided to children who have been used in and/or recruited into armed conflict.

Right to participate in public life and rights of minorities (arts. 25 and 27)

24. Please outline the main aspects of the draft bill on the protection of religious and ethnic minority rights and provide information on its current status. Please also provide additional information about efforts made to increase the participation of persons belonging to minorities in the public sector, including in the judiciary and the security and police forces, as well as information about the impact of those measures. In this context, please also indicate whether the State party envisages holding a nationwide census in order to collect reliable statistical data on the composition of its population.

25. Please provide updated information about measures taken to prevent, and prosecute and punish perpetrators of, targeted violent attacks and abuses, including killings, abductions, torture and ill-treatment, sexual violence, hate speech and forced conversions, against persons belonging to ethnic, religious and linguistic groups as well as violent attacks on religious sites and places of worship, as well as information on the impact of those measures.

Dissemination of information relating to the Covenant (art. 2)

26. Please provide information on the steps taken to disseminate information on the Covenant and on the submission of the fifth periodic report of the State party and its forthcoming examination by the Committee. Please also provide information on the involvement of representatives of minority groups, civil society, non-governmental organizations and the High Commission for Human Rights in the preparatory process of the periodic report.